

Bruce J. Berger, #133320
Joshua D. Milton, #324982
BERGER MILTON, INC.
2147 Herndon Avenue
Suite 103
Clovis, California 93611
Voice: (559) 326-7914
FAX: (559) 533-0428
Email: bruceb@bergermilton.com; joshuam@bergermilton.com

Attorneys for Defendant, FRESNO UNIFIED SCHOOL DISTRICT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN HJ DOE, an individual,)	Case No: 1:25-CV-00570-KES-EPG
)	
Plaintiff,)	STIPULATION AND ORDER TO
)	REMAND CASE TO STATE COURT
vs.)	
)	
FRESNO UNIFIED SCHOOL DISTRICT, a)	
business entity of form unknown; SAMUEL)	
LOFTY CONFECTIONER, and DOES 1 to 100,)	
)	
Defendants.)	
)	
)	
)	
)	
)	

RECITALS

1. Plaintiff John HJ Doe commenced this action by filing a complaint in the Superior Court of the State of California in and for the County of Fresno, entitled John “HJ” Doe v. Fresno Unified School District; Samuel Lofty Confectioner; and DOES 1 to 100, as Case No. 23CECG03206. All of the named defendants appeared in the action, and as a result of successive demurrers by Defendant FUSD, Plaintiff filed and served a Second Amended Complaint (“SAC”) on April 9, 2025.

2. Defendant Fresno Unified School District (“FUSD”) contends the SAC for the first time alleges a cause of action on behalf of Plaintiff for sex discrimination under Title IX, 20 U.S.C. § 1681. Specifically, Defendant FUSD contends Plaintiff’s Original Complaint and First Amended Complaint (“FAC”) both alleged Title IX as a basis for an alleged mandatory duty applicable to Defendant FUSD

1 through California Government Code § 815.6. In ruling on Defendant FUSD’s demurrer to Plaintiff’s
2 FAC, the court ruled Title IX does not impose a mandatory duty and granted leave to amend to allow
3 Plaintiff to properly assert claims for sex discrimination under Title IX and its California counterpart,
4 Education Code §§ 200, et seq.

5 2. On May 12, 2025, Defendant Confectioner filed an answer to the FAC in state court.

6 3. On May 13, 2025, Defendant FUSD filed its Notice of Removal with the court, and filed
7 in the Fresno County Superior Court its Notice to Adverse Party of Removal to federal court.

8 4. On May 15, 2025, Plaintiff’s counsel corresponded with counsel for Defendant FUSD,
9 contending Plaintiff’s original complaint first raised the federal question regarding Title IX, and that in
10 any event, even if the SAC were to be considered the trigger for removal, the filing was late under 28
11 U.S.C. § 1446.

12 5. Upon reflection, counsel for Defendant FUSD must concede Plaintiff’s position on 28
13 U.S.C. § 1446 is dispositive, i.e., the Notice of Removal was filed beyond the 30-day time limit set forth
14 under 28 U.S.C. § 1446(b)(3).

15 6. Under the circumstances, the parties agree remand is warranted at this time, and it is
16 respectfully requested that the court take the Scheduling Conference set for August 5, 2025, off calendar.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

STIPULATION

NOW, THEREFORE, Plaintiff and Defendant FUSD, by and through their attorneys of record, and Defendant Confectioner, on his own behalf, hereby stipulate and agree the action shall immediately be remanded to the Superior Court for the State of California, County of Fresno.

IT IS SO STIPULATED.

Dated: May 16, 2025

BERGER MILTON, INC.

By: /s/Bruce J. Berger

Bruce J. Berger
Attorneys for Defendant FRESNO UNIFIED
SCHOOL DISTRICT

Dated: May 16, 2025

MANLY, STEWART & FINALDI

By: /s/Ariel Romero

Ariel Romero
Attorneys for Plaintiff JOHN HJ DOE

Dated: May 16, 2025

SAMUEL LOFTY CONFECTION

By: /s/Samuel Lofty Confectioner

Samuel Lofty Confectioner, *in pro per*

///

///

///

///

///

ORDER

Pursuant to the parties' stipulation, and good cause appearing, this matter shall be remanded to the Fresno County Superior Court. The Clerk of the Court is directed to mail a copy of this order to the clerk of the Fresno County Superior Court and close this case.

IT IS SO ORDERED.

Dated: May 19, 2025


UNITED STATES DISTRICT JUDGE